IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 20059 of 1997

Between:

1 Theeti Krishna, S/o. Veera Swamy.
R/o. Someswaram, Rayavaram Mandal, East Godavari.
2 Bandi Satyanarayana, S/o. Venkanna.
R/o. Someswaram, Rayavaram Mandal, East Godavari.
3 Kovvuri Siva Rama Krishna Reddy, S/o. Appa Reddy.
R/o. Someswaram, Rayavaram Mandal, East Godavari.
4 Dwarampudi Subba Reddy, S/o. Venkata Reddy.
R/o. Someswaram, Rayavaram Mandal, East Godavari.

.....PETITIONER(S)

AND

1 The Deputy Executive Engineer, Irrigation Circle,
Ramachandra Puram, East Godavari.
2 The Mandal Revenue Officer,
Rayavaram, East Godavari.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of Writ of Mandamus or any other appropriate writ, declaring the inaction of the respondents in regularising the sites in the occupation of the petitioners as illegal, arbitrary and void and consequently direct the respondents not to dispossess the petitioner from their houses situated in Someswaram Village, Rayavaram Mandal, East Godavari District without due process of law

Counsel for the Petitioner:MR.M.GURU DUTT

Counsel for the Respondent No.: GP FOR REVENUE

The Court made the following :

ORDER:-

The present writ petition is filed questioning the action of the respondents in not regularizing the sites in occupation of the petitioners in Someswaram village, Rayavaram Mandal, East Godavari district .

The petitioners claim to be landless poor persons, having raised thatched houses in the Government poramboke land abutting Someswaram to Rajanagaram road. It is also stated that some of the petitioners were doing certain petty businesses therein, without causing any obstruction to others. The petitioners allege that on instigation of certain vested interested persons, the revenue authorities are trying to evict them from the subject place and to demolish their houses, without following the procedure of law and issuing proper notices. The petitioner is stated to have made representations to the respondents 1 and 2 to regularize the encroachments and to grant pattas to eligible beneficiaries and that no action was taken thereon. It is alleged that on 20-8-1997, the second respondent along with his subordinates came to subject place and tried to evict the petitioners without any reasonable cause. Questioning the said action, the present writ petition is filed.

While admitting the writ petition, this Court by order dated
22-8-1997 granted interim stay of demolition in W.P.M.P.No.
24331 of 1997. Pursuant thereto, the second respondent filed a counter affidavit.

In the counter affidavit it is stated that the petitioners herein were living by erecting petty shops and houses on either side of the R & B Road margin leading from Someswaram to Rajanagaram road, which are objectionable and the Mandal Revenue Officer has taken up the matter under sections 6 and 7 of the Land Encroachment Act, 1905. It is specifically stated that the Revenue Officials never recommended for regularization of the said encroachments, since they are objectionable in nature and causing traffic hazards. During the course of widening the road, the Government has issued instructions to evict the encroachers on the either sides of all the roads leading from Someswaram to Rajanagaram and notices were issued to encroachers under Sections 6 and 7 of the Land Encroachment Act, 1905. It is also stated that the road in question is a busy road and there is every possibility of occurrence of accidents and it requires widening, as such necessary action was taken by the respondents in accordance with law, which cannot be said to be illegal.

Heard learned counsel for petitioner and learned Government Pleader for Revenue.

Having regard to specific stand taken by the respondents that the encroachments made by the petitioners on either side of the Someswaram to Rajanagaram R & B road, is causing inconvenience and traffic hazards and is objectionable and the road in question requires widening in the public interest and that notices were issued under Sections 6 and 7 of the Land Encroachments Act, the contention of the petitioners that they are being evicted illegally, without following due procedure contemplated under law, cannot be accepted. The petitioners have no right to encroach upon the road margin, causing obstruction to the general public. Admittedly, the petitioners are encroachers and the respondents, having felt the necessity to widen the road, issued notices to the petitioners under Land Encroachment Act, which cannot be said as illegal.

For the foregoing reasons, the writ petition fails and accordingly the same is dismissed. No costs.

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N.V.RAMANA,J

28-3-2005

TVK

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Deputy Executive Engineer, Irrigation Circle,
Ramachandra Puram, East Godavari.
2 The Mandal Revenue Officer,
Rayavaram, East Godavari.

3) 2 CD copies

4) 2 CCs to Government Pleader for Revenue, High Court of A.P. Buildings, Hyderabad (OUT)